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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,385	03/17/2004	James V. Miller	P00918-US-00 (25490.0031)	3674
22446	7590	07/13/2007	EXAMINER	
ICE MILLER LLP ONE AMERICAN SQUARE, SUITE 3100 INDIANAPOLIS, IN 46282-0200			JOHNSON, BLAIR M	
			ART UNIT	PAPER NUMBER
			3634	
			MAIL DATE	DELIVERY MODE
			07/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/802,385	Applicant(s) MILLER, JAMES V.	
	Examiner Blair M. Johnson	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13, 16, 18 and 28-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13, 16, 18 and 28-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

Specification

The amendment filed 4/11/07 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

The substitute specification is accepted and has been entered. However, while the majority of previous objections have been overcome, the amendment to paragraph 29a in which "must" has been changed to "may" constitutes new matter. The term "may" suggests an option that the curved wall "may not" extend 180 degrees, in which case the screw would not be held therein, as noted by Applicant in his remarks.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

Claims 16 and 34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claim 16, this rejection is repeated. Clearly, there is a portion of the curve in question that is approaching "flat", i.e, a large radius of curvature, which portion is bounded on both sides by curved portions that are of lesser radius of curvature.

In claim 34, the limitation "or less" is not supported by the specification and therefore constitutes new matter.

Claims 18,30 and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 18, there is no antecedent basis for "the curved surface".

In claims 30 and 34, the limitation "along a longitudinal axis" is ambiguous since the longitudinal axis of the slot is along the length thereof, unless specified otherwise.

Claim Rejections - 35 USC § 102

Claims 13,16,18 and 28-32 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Schneider 5,204,147.

In Fig. 1, see engaging track 2 and receptacle track 3. The receptacle track has a lip (defining the left edge of the opening into receptacle 5), a first articulation surface extending clockwise from the lip to a location at the top of the receptacle track, a second articulation surface beginning near the top of the receptacle 5 but spaced from the first articulation surface and continuing to the tip, the surfaces being designated as "articulation surfaces" which may end and begin at any particular location, presented above, thereby defining discontinuous, and a gap is located between the ends of the surfaces. Regarding claim 16, the engaging track has a decreasing radius arc ending at a tip as best understood in light of the 112 rejection above. Regarding claims 28 and 29, the receptacle is only recited as being "configured to receive", i.e. "capable of receiving", which defines little, if any, structure and is easily met by Schneider. Claim 30 is met as best understood and 31 is met by the fact that any axis may exist that meets the recited value since only "a" longitudinal axis is recited.

Claims 32 and 34 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by White.

White discloses male (engaging tracks) and female (receptacle tracks) edges of his slats that engage each other so as to prevent any movement along "a longitudinal axis". See column 3, lines 23-36.

Double Patenting

Claims 28 and 32 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 48 and 55 of copending Application No. 11/058,879. This is a provisional obviousness-type double patenting rejection.

Response to Arguments

Applicant's arguments have been fully considered but they are not persuasive. As mentioned above, the substitute specification has been approved and entered except for the term "may". The discussion about the decreasing radius is not accepted, also as discussed above. Regarding the 102 rejections, Applicant recites claim 13 again in the body of the remarks but includes elements therein that are not in claim 13, such as the 210 degree feature. As discussed above, the claims are read broadly and the term "articulation surface" is met by any portion of the inner surfaces of the receptacle track that are capable of being an "articulation surface".

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

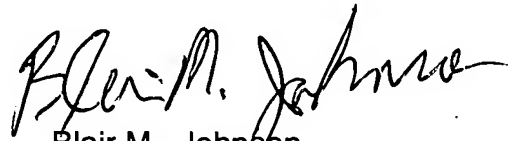
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blair M. Johnson whose telephone number is (571) 272-6830. The examiner can normally be reached on Mon.-Fri., 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3634

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Blair M. Johnson", is positioned above the printed name.

Blair M. Johnson
Primary Examiner
Art Unit 3634

BMJ
7/5/07